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CHARLES ELMORE CROPLEY
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1946.

No. [redacted] 32

FEDERAL TRADE COMMISSION,

Petitioner,

vs.

CALIFORNIA PORTLAND CEMENT COMPANY.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1946.

No. 931.

FEDERAL TRADE COMMISSION,

Petitioner,

vs.

CALIFORNIA PORTLAND CEMENT COMPANY.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

Respondent objects to the granting of the writ of certiorari.

The brief in opposition filed on behalf of Aetna Portland Cement Company and others states general objections to the granting of the writ which are applicable to the respondents in all of the cases. We concur in the objections stated in the Aetna brief. In order to simplify the court's study of the problem raised by the petition, we shall not restate or amplify the general objections to apply them to the case against this Respondent.

The Record shows that Respondent appeared separately throughout the proceedings before the Commission and

petitioned separately to the Circuit Court and that throughout the proceedings Respondent has taken the position that its case is special and unusual and not covered by the Commission's general charges. [R. 18, 345, 15919, 16208, 16468.]

The Record shows that Respondent is an independent company with only one cement mill at Colton near Los Angeles, California, that its market area is located in Southern California where approximately 96% of its product is marketed and in southern Nevada and central and western Arizona where approximately 4% is marketed. [R. 13030, 13035-37, 15964.] Respondent has taken the position that the Record demonstrates that its California market area is isolated from that of out of state mills and that because of freight rate differentials no out of state mill can compete in its Southern California market area. It has taken the position that regardless of what is or can be found against respondents in the other cases, there is no finding against Respondent which will sustain the Order against it and there is no evidence in the Record which would sustain a sufficient finding against Respondent. [R. 15922, 16471, *et seq.*]

We recognize the practical difficulty in showing the special objections of individual respondents on a consideration of a petition for certiorari on a Record and petition like the present ones. The Record is large and complex and the petition is deficient in giving a statement of facts and references to the Record sufficient for an adequate

understanding of even the general points let alone any special cases. We therefore shall not attempt to state Respondent's special case in this brief in opposition to the petition and shall rest our opposition on the general grounds stated in the Aetna brief. If it should develop that there is occasion for them, we shall desire to present briefs and argument in which Respondent's case is specially presented.

We submit that the petition should be denied.

ALEX W. DAVIS,

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Attorneys for California Portland Cement Company.